

**REMARKS**

In response to the Restriction Requirement, Applicants hereby elect, with traverse, to prosecute Group II, which includes claims 10, 30, 31, 33, 36-37, 39-42 and 45 and is drawn to an antibody. Applicants reserve the right to prosecute the non-elected subject matter of claims in subsequent divisional applications.

Applicants submit that the invention encompassed by the claims of Group II (drawn to an antibody) could be examined at the same time as the inventions encompassed by the claims of Groups III-VIII. For example, a search of the prior art to determine the novelty of the antibody of the invention would provide information regarding the novelty of the polypeptide. A proper search required to determine the novelty of polypeptide would substantially overlap with a search of the prior art to determine the novelty of antibodies against the polypeptides.

Further, Applicants submit that claims substantially corresponding to the pending claims have already been examined and allowed in ancestor applications. The allowed claims are as follows:

**US 6,265,547**

1. A purified polypeptide comprising the amino acid sequence of SEQ ID NO:1 or consisting of a fragment of SEQ ID NO:1 from about amino acid residue H73 to about amino acid residue P82 of SEQ ID NO:1.

2. A composition comprising the polypeptide of claim 1.

3. A method of using a protein or a fragment thereof to purify a molecule or compound which specifically binds the protein from a sample, the method comprising:

a) combining the protein or a fragment thereof of claim 1 with a sample under conditions to allow specific binding;

b) recovering the bound protein; and

c) separating the protein from the molecule or compound, thereby obtaining purified molecule or compound.

4. A method for using a protein to screen a library of other molecules for a molecule which specifically binds the protein, the method comprising:

(a) combining the protein of claim 1 with the library of molecules under conditions suitable to allow complex formation, and

(b) detecting complex formation, wherein the presence of the complex identifies a molecule which specifically binds the protein.

5. The method of claim 4, wherein the library is selected from the group consisting of inhibitors, peptides, antibodies, agonists and antagonists.

**US 5,958,731**

1. An isolated and purified polynucleotide encoding a polypeptide comprising the amino acid sequence of SEQ ID NO:1.

2. An isolated and purified polynucleotide comprising a sequence which is completely complementary to the polynucleotide of claim 1.

3. An isolated and purified polynucleotide comprising the polynucleotide sequence of SEQ ID NO:2.

4. An isolated and purified polynucleotide comprising a sequence which is completely complementary to the polynucleotide of claim 3.

5. An expression vector comprising the polynucleotide of claim 1.

6. A host cell comprising the expression vector of claim 5.

7. A method for producing a polypeptide, the method comprising the steps of:

(a) culturing the host cell of claim 6 under conditions suitable for the expression of the

polypeptide; and

(b) recovering the polypeptide from the host cell culture.

8. A method for detecting a polynucleotide, the method comprising the steps of:

(a) hybridizing the polynucleotide of claim 6 to at least one nucleic acid in a sample, thereby forming a hybridization complex; and

(b) detecting the hybridization complex, wherein the presence of the hybridization complex correlates with the presence of the polynucleotide in the sample.

9. The method of claim 8 further comprising amplifying the polynucleotide prior to hybridization.

Group I, III-VIII are thus drawn to substantially the same polypeptide invention as previously allowed in the divisional application but are of a different scope from the previously allowed claims. Claims 1-2 and 9 are drawn to a polypeptide, claim 29 is drawn to a test based on the expression of the peptide CJPDZ, claims 32 and 34 are drawn to a method of diagnosing, claims 35 and 38 are drawn to method of preparing antibodies, claim 43 is drawn to the method of detection of a polypeptide, and claim 44 is method of purifying the polypeptide substantially related to the polypeptide claims already issued, and should be examined together, since there would appear to be minimal additional burden on the Examiner to examine the method claims in addition to the antibody claims elected in the present application, particularly in view of the searches and examination which were already conducted with respect to the previously issued claims and the additional burden on Applicants to file, prosecute and maintain yet another application in this family. Applicants therefore respectfully request the Examiner to consider claims of Group III-VIII.

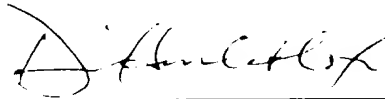
Moreover, Groups V and VI claims are "method of making" claims that depend from the claim 10 of Group II. Therefore, upon allowance of Group II claims, the method of making claims of Group V and VI should be rejoined and considered together, in accordance with the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of method claims covering the same scope of products.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**.

Respectfully submitted,

INCYTE GENOMICS, INC.

Date: March 13, 2002

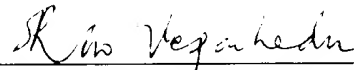


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